

1. Amend Section 11-400 to read:
2. Post-Hearing: Amend Section 11-400 to read:

11-400 AFDC-FOSTER CARE RATES - DEFINITIONS

11-400

Definitions. For purposes of the Foster Care program, the following definitions shall apply wherever the terms are used throughout Chapter 11-400: (Continued)

- f. (4) Financial Audit – An ~~annual~~ audit by a certified public accountant or a state-licensed public accountant ~~of that includes~~ all the programs, ~~and~~ activities, and cost data of a non-profit corporation which operates a group home and/or foster family agency which provides treatment services. Submission of the financial audit report is a condition of ~~obtaining~~ receiving a group home program rate and/or a foster family agency treatment rate. (Continued)
- (7) Fiscal Audit - An audit conducted ~~by the Department~~ to determine whether the cost data on allowable and reasonable costs and other financial information submitted by a group home or foster family agency is accurate and supported and to determine whether misuse or fraud has occurred. (Continued)
- (13) Fraud – Fraud is an intentional misrepresentation or concealment of information in order to acquire something of value. Fraud includes the intentional false reporting of financial information or illegal acts resulting in material misstatements to the non-profit corporation's financial statements. Fraud also includes the misappropriation of assets by means of deception, theft, embezzlement, or material misrepresentation, which results in the illegal expenditure of funds.
- (134) (Continued)
- (145) (Continued)
- m. (4) Management Decision - The evaluation by the Department of a provider's financial audit report, cost data, or other information or documentation as described in OMB Circular A-133 Subsection .405. (Continued)
- (5) Misuse – Misuse is the unauthorized acquisition, use, or disposition of assets for the personal benefit of any individual or individuals that has a material effect on the financial statements. Misuse also includes the use of AFDC-FC funds for purposes that are not permissible as specified in Section 11-404, which provides guidelines on the appropriate use of State and Federal Foster Care funds.

- r. (1) ~~Rate Application — An application which consists of, but is not limited to, a Group Home Program Rate Application (SR 1, Rev. 12/98), Program Classification Report (SR 2, Rev. 12/94), Group Home Program Cost Report (SR 3, Rev. 1/99), Group Home Program Payroll & Fringe Benefit Report (SR 4, Rev. 10/94), Group Home Program Days of Care Schedule (SR 5, Rev. 10/94), a copy of the financial audit report as defined in Section 11-405.2, a copy of the group home administrator certificate, and a training plan for the purpose of setting a rate from the following types of group home providers.~~
- ~~(A) A new group home provider rate application for a new program;~~
 - ~~(B) An existing group home provider annual rate application, new program rate application, or program change rate application; or~~
 - ~~(C) An application for a program reinstatement after a program's rate has been terminated.~~
- (21) (Continued)
- (32) RCL Reduction Rate Payment Offset – An involuntary collection procedure for recovering a sustained overpayment or a self-reported overpayment in a rate application from a group home provider and/or foster family agency who does not enter into a repayment agreement with the Department or a group home provider and/or foster family agency who has three outstanding payments on a repayment agreement prior to the sustained overpayment being repaid.
- (3) RCL Reduction – A reduction to a group home provider's previously approved RCL resulting from: (A) a voluntary program change application in which the provider requests an RCL decrease; (B) a provisional rate program audit in which the group home failed to maintain the approved RCL for the specified audit period; or (C) a nonprovisional program audit in which the provider either failed corrective action or did not provide corrective action as described in Section 11-402.55.
- (4) (Continued)
- s. (Continued)

Authority Cited: Sections 10553, 10554, 11460(b), 11462(i) and (j), 11462.06, 11466.1, 11466.21, 11466.22, 11466.5, and 14680, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Sections 1200, 1250, 1502(a)(1) and (a)(8), 1502.4, 1502.4(a)(1), (a)(2)(A), and (b), and 1530.8, Health and Safety Code; Section 3353, California Labor

Code; Sections 4096, 4096(e)(2), 4096.5, 5600.3(a)(2), 5777, 5778, 10852, 11226, 11228, 11230, 11231, 11232, 11233, 11234, 11235, 11236, 11400(h), 11402.5(a), 11460, 11461.1, 11462, 11462(a)(1), 11462.01(a)(2)(A)(i) and (ii), 11462.01(a)(2)(B)(i), 11462.03, 11466.1, 11466.2, 11466.21, 11466.22, 11466.3, 11466.31, 11466.33, 11466.34, 11467.1 (Assembly Bill 1197, Chapter 1088, Statutes of 1993), 11468, 11468.6, 14680, 16522(a), (b), and (c), and 18350, Welfare and Institutions Code; Public Laws 98-502 and 104-156; Assembly Bill 1575, Chapter 728, Statutes of 1997; The Classification of Group Home Program Under the Standardized Schedule of Rate System Report, August 30, 1989, and Title 8, California Code of Regulations, Section 11050; and federal Office of Management and Budget (OMB) Circular A-122, Attachment B, Paragraph 11, Depreciation and Use Allowances, and Paragraph 46, Rental Costs, dated June 1, 1998 Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book) 1994 Revision, including Amendment No. 1 (May 1999) and Amendment No. 2 (July 1999) Section 4.25 and 4.26; and Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, February 22, 2002 and May 7, 2002; American Institute of Certified Public Accountants Statement on Auditing Standards Number 82, Description and Characteristics of Fraud.

1. Amend Section 11-402 to read:
2. Post-Hearing: Amend Section 11-402 to read:

11-402 GROUP HOME RATE SETTING (Continued)

11-402

.2 Program Classification (Continued)

.22 Weightings for Program Component Hours (Continued)

.222 Social Work Activities Weightings

- (a) Each social worker that meets the definition in Section 11-400s.(5), shall have a base factor of 1.0 for each eligible hour. Weightings shall be given to each eligible hour of social work activity based on the professional level of each social worker as specified in the August 30th Report, page 3. (Continued)

.3 Group Home Rate Application Process (Continued)

- .31 Each provider shall submit to the Department a completed rate application as specified in Sections 11-402.35 through 11-402.3659, as appropriate, for each program each fiscal year in order to receive a rate for that program. The rate application shall contain a statement that the signatory understands that the information contained in the document is correct to the best of their knowledge and that submission of false or misleading information may be prosecuted as a crime. (Continued)

- .33 A rate application shall be considered complete when all required forms have been completed with the necessary information and supporting documentation, as required in Sections 11-402.35 and ~~36~~ needed to determine the RCL, have been submitted to the Department. (Continued)

.35 (Continued)

- .351 A complete Group Home Program Rate Application, SR 1 (~~Rev. 12/98~~);

- .352 A complete Program Classification Report, (SR 2) (~~Rev. 12/94~~); and a complete Group Home Program Days of Care Schedule, (SR 5). (Continued)

- .354 ~~Either of~~ The following if not submitted with a previous rate application:

- (a) A copy of the organization's tax exempt status letter from either the Internal Revenue Service (IRS) letter or the California Franchise Tax Board designating the provider as tax exempt; ~~or~~ and, if applicable,
- (b) ~~The following documentation of nonprofit status:~~

(4b) (Continued)

(A1) (Continued)

(B2) (Continued)

(C3) (Continued)

.355 (Continued)

.36 ~~The following information shall be provided with the rate application package. All penalties listed for late or incomplete application shall apply to these documents as specified in Section 11-402.38. (Reserved)~~

~~.361 A complete Group Home Program Cost Report, SR 3 (Rev. 1/99);~~

~~.362 A complete Group Home Program Payroll and Fringe Benefit Report, SR 4 (Rev. 10/94) and~~

~~.363 A complete Group Home Program Days of Care Schedule, SR 5 (Rev. 10/94).~~

~~.364 Effective May 1, 2000, a copy of the financial audit report as described in Section 11-405.2 except:~~

~~(a) Beginning July 1, 2000, any new provider that has been incorporated fewer than 12 months at the time it submits its rate application shall be exempt from being required to submit a financial audit report.~~

~~(b) Providers that do not have adequate financial records to obtain an audit in time for Fiscal Year 2000-01 rate applications may be granted additional time in accordance with the provisions specified by Section 11-402.371(b).~~

.37 The Department's good cause procedures shall be as follows: (Continued)

.371 (Continued)

~~(b) Providers that do not have adequate financial records to obtain an audit in time for Fiscal Year 2000-01 rate applications may be granted additional time, as provided in Section 11-402.372(c), to submit the required audit report, provided that:~~

~~(1) A request is submitted to the Department no later than February 1, 2000.~~

- (2) ~~The request includes a statement from a CPA or state-licensed public accountant who meets the requirements of Sections 11-405.211 and 11-405.212 which clearly identifies the condition of the records or accounting system that precludes an audit from being completed.~~
- (3) ~~The CPA or a state-licensed public accountant states that the audit and audit report will be completed within the time frame provided in Section 11-402.372(e).~~
- (4) ~~The CPA or a state-licensed public accountant states that a timely audit report could not be completed even with a disclaimer or a qualified opinion.~~

.372 (Continued)

- (e) ~~When the Department determines there has been good cause for a late or incomplete filing of an application due to inadequate financial records for purposes of implementing the provisions of Section 11-402.364(b), the Department shall notify the provider that the provider has a period not to exceed 60 days from the application due date to file a complete application.~~
- (1) ~~For complete applications submitted in accordance with Subsection (e) the effective date of the rate shall be July 1.~~
- (2) ~~Applications which are incomplete or are not submitted within the 60-day period specified in Section 11-402.372(e) shall be subject to the penalties in Section 11-402.38.~~

.39 (Continued)

.393 When a provider's rate will be terminated for any reason other than those listed in Section 11-402.391, or 11-402.392, including failure to submit a financial audit report as required by Section 11-405.2, the Department shall provide notice to the provider of the rate termination date. The notice shall:
(Continued)

.4 Deviations from Annual Rate Setting

.41 New Program

.411 An initial rate application from an existing provider for a new program shall include all required forms and information listed in Sections 11-402.351 through 11-402.3659, and the Group Home Program Cost Report (SR 3) with projected cost data with the following additional requirements. (Continued)

(b) Providers who are discontinuing any group home program(s) in favor of a new program shall submit the ~~cost information on forms SR 3 (Rev. 11/94), SR 4 (Rev. 10/94) and~~ Group Home Program Days of Care Schedule (SR 5) (Rev. 10/94) using the actual costs for any months of operation of the discontinued program not previously reported as part of the annual rate application process. (Continued)

(e) ~~With an application submitted on or after July 1, 2000, a copy of the financial audit report as described in Section 11-405.2 except:~~

(1) ~~Beginning July 1, 2000, any new provider that has been incorporated fewer than 12 months at the time it submits its rate application shall be exempt from being required to submit a financial audit report.~~

(fe) (Continued)

.42 New Provider (Continued)

.422 An initial rate application from a new provider shall include all required forms and information listed in Sections 11-402.351 through 11-402.3659, as appropriate, with the following additional requirements: (Continued)

(b) The ~~cost information forms~~ Group Home Program Cost Report (SR 3) (Rev. 11/94), SR 4 (Rev. 10/94) and Group Home Program Days of Care Schedule (SR 5) (Rev. 10/94) shall be completed identifying projected ~~costs~~ data. (Continued)

(e) ~~With an application submitted on or after July 1, 2000, a copy of the financial audit report as described in Section 11-405.2 except:~~

(1) ~~Beginning July 1, 2000, any new provider that has been incorporated fewer than 12 months at the time it submits its rate application shall be exempt from being required to submit a financial audit report.~~

(fe) (Continued)

.426 The Department shall establish the provisional rate based on the projected RCL for a group home program using data submitted by the provider in the initial rate application specified in Sections 11-402.351 – .3659. (Continued)

.43 Program Changes

.432 (Continued)

- (d) Providers making program changes affecting more than one program, that is, discontinuing one program in favor of another as described in Section 11-402.435(c)(1) or otherwise discontinuing a program, shall submit the ~~cost information forms SR 3 (Rev. 11/94), SR 4 (Rev. 10/94), and Group Home Program Days of Care Schedule (SR 5) (Rev. 10/94)~~ using actual costs for the program to be discontinued based on the months not previously reported as part of the annual rate application process. (Continued)
- (f) ~~With an application submitted on or after July 1, 2000, a copy of the financial audit report as described in Section 11-405.2 except:~~
 - (1) ~~Beginning July 1, 2000, any new provider that has been incorporated fewer than 12 months at the time it submits its rate application shall be exempt from being required to submit a financial audit report.~~ (Continued)

.45 Program Reinstatement

- .451 A program reinstatement is a process to re-establish a program that has been terminated as specified in Sections 11-402.39, 11-402.524, 11-402.525, 11-402.526, 11-402.527, 11-402.667, 11-402.668, 11-402.669, and 11-405.4217 through .219. A program shall be reinstated when the Department determines that all appropriate ~~application~~ requirements specified in Sections 11-402.3, and 11-402.667, and 11-405.2 have been met. For programs classified at RCL 13 and RCL 14, all requirements as specified in Section 11-402.181 must be met. (Continued)

.6 Overpayments (Continued)

- .62 An overpayment situation shall be created when the actual average RCL falls below the projected average RCL for the same period or AFDC-FC funds are spent in ~~unallowable cost categories~~ a manner that is inconsistent with Section 11-404. An overpayment shall be caused by, but is not limited to, the following: (Continued)

.629 AFDC-FC program funds are not spent on permissible items as specified in Section 11-404.

- .63 Overpayments shall be determined by: (Continued)

.636 The Department determining through a management decision, that a non-profit corporation misused or fraudulently expended AFDC-FC program funds. If an overpayment exists as determined by a program audit and the Department has

determined that a non-profit corporation misused or fraudulently expended funds in accordance with Section 11-405.23, then only the greater of the overpayment amounts is subject to recovery.

.66 Overpayment Collection (Continued)

.664 (Continued)

- (d) The Department shall collect overpayments under the mandatory repayment schedule by ~~the use of an RCL reduction in accordance with Section 11-400r.(3)~~ offsetting against current group home provider rate reimbursement payments under the AFDC-FC program in accordance with MPP Section 11-402.66.
- (e) The Department shall issue, to a provider and the counties, a rate letter that indicates the amount of the ~~RCL reduction~~ offset, which will be applied to the monthly overpayment amount including interest and the amount of the actual rate reimbursement to the group home provider during the period the mandatory repayment schedule will be in effect.
(Continued)

.665 (Continued)

- (a) In addition to the monthly ~~RCL~~ payment reduction amount subject to Section 11-402.664, fifty percent of any California Necessities Index (CNI) increases and any adjustments to the Standardized Schedule of Rates in the AFDC-FC program shall be withheld and applied towards a group home provider overpayment until a mandatory repayment schedule recovers any outstanding overpayments. (Continued)

.8 Cost Reporting

- .81 ~~A P~~providers shall report the actual allowable and reasonable costs for each program to the Department on Forms ~~SR 3 (Rev. 11/94) and SR 4 (Rev. 10/94) and SR 5 (Rev. 10/94) for the 12 months of the immediately preceding calendar year beginning January 1 and ending December 31 except:~~ based on the provider's fiscal year in accordance with Section 11-405.214.

- .811 If the provider has established a new program within the provider's previous ~~calendar~~ fiscal year and has less than 12 months of data, the provider shall submit cost data for the first month the rate is effective to the end of the provider's ~~calendar~~ fiscal year.

- .812 ~~The FY 1990-01 implementation year requires data reporting as specified in Section 11-402.9.~~

.82 Allowable Costs

Reported costs shall be actual allowable and reasonable as defined in federal statutes and regulations including 45 CFR, Part 74 and 45 CFR, Part 1356 in addition to other costs listed in Sections 11-402.822 and .823. (Continued)

.828 For purposes of reporting AFDC-FC costs, the determination of what is reasonable may shall be based upon, but not be limited to, comparable costs of similar programs the standards listed below and the actions a prudent person would take in similar circumstances. (Continued)

- (c) Reasonableness standards for salaries are derived from the Los Angeles Area United Way Salary and Classification Plan for FY 1987-88 plus California Necessities' Index increases for 1988-89 of 4.74 percent and 1989-90 of 4.61 percent. All executive compensation shall be reported for each executive officer. The reasonableness standards and criteria for executive compensation are contained in Internal Revenue Code Section 4958. This rule shall apply to all individuals of the non-profit corporation deemed by the Internal Revenue Service to be anyone in a position to exercise substantial influence over a non-profit corporation's affairs. This rule may apply to the individual's immediate family as well as to family-controlled entities. Compensation provided in accordance with Internal Revenue Code Section 4958 shall be deemed to be reasonable for the purposes of reporting AFDC-FC costs.

HANDBOOK BEGINS HERE

(1) Executive Director

Level	Annual Budget	Salary Limit
I	\$105,000 or less	\$ 1,391
II	\$105,000 to \$263,000	\$ 48,228
III	\$263,000 to \$524,000	\$ 56,169
IV	\$524,000 to \$1,049,000	\$ 65,163
V	\$1,049,000 to \$1,577,000	\$ 75,523
VI	\$1,577,000 to \$2,066,000	\$ 87,607
VII	\$2,066,000 or more	\$102,859

(2) Assistant Executive Director

- (A) ~~One Salary level below that of Executive Director, but not lower than Level I shall correlate to the limit of this job title. The assistant executive director is any high level employee of the organization whose duty statement specifies that the employee acts on behalf of the executive director in his/her absence. It is possible in some organizations to have more than one employee considered to be an assistance executive director. However, the qualifications and duties of the employee(s) designated to act as executive director in his/her absence must be consistent with his responsibility.~~

(3) All Others

- (A) ~~Below the assistant executive director level, two salary ceilings will apply. For supervisory personnel, the maximum salary is \$45,664, but not more than the salary of the assistant executive director or the executive director of the organization. A supervisory employee must supervise or direct the activities of the full-time equivalent of at least three other employees. The maximum salary for non-supervisory employees is \$32,713.~~

HANDBOOK ENDS HERE

.83 (Continued)

.84 Accounting Requirements

.841 ~~An actual cost basis of accounting shall be used in reporting costs.~~ (Reserved)

- (a) ~~Actual costs must have been paid within the report period as specified in Section 11-402.81.~~
- (b) ~~Costs not paid within the report period shall be expended in the subsequent report period in which they are paid.~~

.842 (Continued)

.846 Cost Allocation Process

- (a) Allowable AFDC-FC overhead costs as specified in Welfare and Institutions Code Section 11460(b)(1) shall be allocated to each AFDC-FC program. (Continued)

- (1) Allocation bases ~~shall~~ may include, but not be limited to, the following:
 - (A) Direct child care hours;
 - (B) Number of children in each program;
 - (C) Square footage; or
 - (D) If applicable, the percentage of AFDC-FC revenue.
- (2) The allocation methodology shall be documented and is subject to audit as specified in Section 11-405.2.

~~.85 Good Cause and Penalty for Late Reporting or Nonreporting~~ (Reserved)

~~.851 Good cause and penalties for late reporting or nonreporting shall be the same as if the rate application is late, incomplete or not submitted as specified in Section 11-402.37.~~ (Continued)

Authority Cited: Sections 10553, 10553(e), 10554, 11460(b), 11462, 11462(j), 11462.06, 11466.1, 11466.2, and 11466.21, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Sections 10553 and 10554, Welfare and Institutions Code Sections 1502(a)(1), 1502.4(b), and 1530.8, Health and Safety Code; Section 3353, California Labor Code; Sections 366, 4096.5, 4096.5(a), (c), (c)(1), and (2), and (d), 10852, 11226, 11228, 11230, 11231, 11232, 11233, 11235, 11236, 11400(h), 11402.5(a), 11460, 11460(b)(1), 11462, 11462(a)(1), (a)(2) and (a)(3), 11462(d), 11462(e)(3), 11462(g)(14), 11462(i)(1)(B), 11462.01(a), (a)(1), (2), and (3), 11462.01(b), 11462.01(d), (d)(1) and (2), 11462.01(e), 11462.01(f)(1), (2), and (3), 11462.01(g)(1), (2), (3), and (4), 11462.01(h), 11462.01(i)(1), (2), and (3), 11462.01(j), 11462.03, 11466.1, 11466.2, 11466.3, 11466.4, 11466.22, 11466.25, 11466.31, 11466.32, 11466.33, 11466.34, 11466.35, 11466.36, 11467, 11467.1 (Assembly Bill 1197, Chapter 1088, Statutes of 1993), 11468 through 11468.6, 16522(a) and (b), 16501.1(d), and 18350, Welfare and Institutions Code; Sections 1502(a)(1) and (a)(8), Health and Safety Code; Assembly Bill 1575, Chapter 728, Statutes of 1997; Public Laws 98-502 and 104-156; The Classification of Group Home Programs Under the Standardized Schedule of Rate System Report, August 30, 1989; Title 8, California Code of Regulations, Section 11050, Title 11, California Code of Regulations, Section 999.1(a); and Title 1, Division 2, Section 5233, California Corporations Code; and federal Office of Management and Budget OMB Circular A-122, Attachment B, Paragraph 11, Depreciation and Use

Allowances, and Paragraph 46, Rental Costs dated June 1, 1998 Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book); and Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, and February 22, 2002 and May 7, 2002; and the Internal Revenue Code Section 4958.

1. Amend Section 11-403 to read:
2. Post-Hearing: Amend Section 11-403 to read:

11-403 FOSTER FAMILY AGENCY RATES (Continued)

11-403

(c) Allowable Costs

- (1) ~~In order to be claimed for AFDC-FC reimbursement, all~~ Reported costs shall be both actual allowable and reasonable as defined in federal statutes and regulations including 45 CFR Part 74, ~~and 45 CFR Part 1356, and Section 11-402.8.~~

(A) Allowable costs shall include: (Continued)

4. Executive Compensation

All executive compensation shall be reported for each executive officer. The reasonableness standards and criteria for executive compensation are contained in Internal Revenue Code Section 4958. This rule shall apply to all individuals of the non-profit corporation deemed by the Internal Revenue Service (IRS) to be anyone in a position to exercise substantial influence over a non-profit corporation's affairs. This rule may apply to the individual's immediate family as well as to family-controlled entities. Compensation provided in accordance with Internal Revenue Code Section 4958 shall be deemed to be reasonable for the purposes of reporting AFDC-FC costs.

(d) (Continued)

(f) Rate Request Process

(1) Rate Request Submission (Continued)

- (B) ~~Effective April 1, 2000, a~~ A rate request shall be considered complete when all required forms, program statement, ~~financial audit report as described in Section 11-405.2,~~ and other supporting documentation have been completed and submitted to the Department. ~~The following exception to the final audit report requirement shall apply:~~

- ~~1. Beginning July 1, 2000, any new provider that has been incorporated fewer than 12 months at the time it submits its rate application shall be exempt from being required to submit a financial audit report.~~

21. (Continued)

- ~~3. Providers that do not have adequate financial records to obtain an audit in time for fiscal year 2000-01 rate applications may be granted additional time, as provided in Section 11-403(f), to submit the required audit report, provided that:~~
- ~~(i) A request is submitted to the Department no later than February 21, 2000.~~
 - ~~(ii) The request includes a statement from a CPA or state-licensed public accountant who meets the requirements of Sections 11-405.212 which clearly identifies the condition of the records or accounting system that precludes an audit from being completed.~~
 - ~~(iii) The CPA or state-licensed public accountant states that the audit and audit report will be completed within the time frames provided in Section 11-403(f).~~
 - ~~(iv) The CPA or a state-licensed public accountant states that a timely audit report could not be completed even with a disclaimer or a qualified opinion.~~
- ~~4. When the Department determines there has been good cause for a late or incomplete filing of an application due to inadequate financial records for purposes of implementing the provisions of Section 11-403(f)(1)(B)3., the Department shall notify the provider that the provider has a period not to exceed 60 days from the application due date to file a complete application.~~
- ~~(i) For complete applications submitted in accordance with Subsection 4. the effective date of the rate shall be July 1.~~
 - ~~(ii) Applications which are incomplete or are not submitted within the 60-day period specified in Section 11-403(f)(2)(B). (Continued)~~
- ~~(D) For fiscal years subsequent to 1985/86, a A complete rate request is due April 1.~~
- ~~1. A late rate request shall not be accepted from an existing foster family agency after July 1.~~

21. Foster family agencies which do not submit a complete rate request by July 1 shall not have a rate set for the new fiscal year and shall not receive AFDC-FC funds after September 1, except as provided for in Section 11-403(f)(3). (Continued)

(2) Effective Date of Rates (Continued)

(B) (Continued)

3. If the rate request is submitted ~~from~~ two months and one day ~~to three months late~~ late or later, but before July 1, the effective date will be October 1. (Continued)

(3) Rate Reestablishment

(A) A rate reestablishment is a process to reestablish a foster family agency program rate for the remainder of the fiscal year that could not be established in accordance with Section 11-403(f)(1) or was terminated for failure to submit a financial audit report as specified in Section 11-405.219. A program rate shall be reestablished when the Department determines that all applicable rate request requirements have been met.

1. The effective date of the rate for a complete rate request submitted after July 1 shall be no earlier than September 1 or the date of the Department's written notification of reestablishment of the rate to the foster family agency, whichever is later.
2. The rate shall be set, based on the lesser of:
 - (i) the provider's rate for the prior fiscal year, or
 - (ii) the Foster Family Agency Schedule of Rates for the current fiscal year.
3. A foster family agency rate that is terminated pursuant to Section 11-405.219, shall not be reestablished until the non-profit corporation submits a financial audit report in accordance with Section 11-405.21.
 - (i) Once the Department has determined that the provider has satisfactorily met the financial audit requirements as specified in Section 11-405.2, the effective date for the reestablishment of the rate shall be when the Department provides written notification to the foster family agency.

(g) Deviations from the Rate Setting Process

(1) (Continued)

- (B) ~~The initial rate for new foster family agency providers shall consist of the sum of the following amounts per month per child be determined in accordance with Section 11-403(a)(1).~~
- ~~1. The basic foster family agency basic rate as specified in Section 11-403(d)(1)(A)1., plus an increment of \$190.~~
 - ~~2. An amount equal to the average for actual costs incurred for social work services as determined by the Department for foster family agencies which received AFDC-FC funds for the previous fiscal year.~~
 - ~~3. An amount equal to two thirds of the sum of 1. and 2. above for recruitment, training and administration.~~
- (C) In order to establish a permanent rate, new foster family agency providers shall submit to the Department a complete rate request based on actual costs for social work services for one of the following cost periods: in accordance with Section 11-403(f)(1)(B).
- ~~1. If the date of the new foster family agency provider's first AFDC-FC eligible placement occurs between January 1 and June 30, the cost period shall be from the date of the first placement to December 31 of the same year.~~
 - ~~(i) The rate request shall be due the following March 1 and the permanent rate shall be effective the following July 1.~~
 - ~~2. If the date of the new foster family agency provider's first AFDC-FC eligible placement occurs between July and December, the cost period shall be from the date of the first placement to December 31 of the following year.~~
 - ~~(i) The rate request shall be due March 1 of the second calendar year after the initial placement and the permanent rate shall be effective July 1 of the second calendar year.~~
 - ~~(ii) Beginning Fiscal Year 1986/87, the provider shall be entitled to any cost of living increase provided in accordance with Welfare and Institutions Code Section 11463 between the date of the first placement and the date the permanent rate is set.~~

HANDBOOK BEGINS HERE

3. Example:

Date of Initial Placement	Cost Period Ends	Rate Due	Permanent Request Rate Effective
1/1—6/30/86	12/31/86	3/1/87	7/1/87
7/1—12/30/86	12/31/87	3/1/88	7/1/88

HANDBOOK ENDS HERE

(D) ~~With an application submitted on or after July 1, 2000, for foster family agency providers which provider treatment services, a complete rate request shall include a copy of the agency's financial audit report as described in Section 11-405.21. The following exception to the financial audit report requirement shall apply:~~

~~1. Beginning July 1, 2000, any foster family agency provider that has been incorporated fewer than 12 months at the time it submits its application shall be exempt from submitting a financial audit report.~~

(2) New Foster Family Agency Programs (Continued)

(B) ~~Initial r~~Rates for new programs shall be set in accordance with Section 11-403(g)(B) (a)(1). (Continued)

(D) ~~With an application submitted on or after July 1, 2000, foster family agencies which provide treatment services shall submit to the Department a copy of the agency's most recent financial audit report as described in Section 11-405.2 when requesting a new program rate. The following exception to the financial audit report requirement shall apply:~~

~~1. Beginning July 1, 2000, any new provider that has been incorporated fewer than 12 months at the time it submits its rate application shall be exempt from being required to submit a financial audit report.~~
(Continued)

(j) Overpayments

(1) Overpayment ~~policies~~ requirements for foster family agencies shall be as specified in Section 11-402.86. An overpayment shall be caused by, but is not limited to, the expenditure of AFDC-FC program funds on items not permissible as specified in Section 11-404.

(k) Accounting Principles Requirements

- (1) Accounting principles requirements for foster family agencies shall be as specified in Section 11-402.3184.

(l) Good Cause for Late Foster Family Agency Rate Request

- (1) A provider who is unable to submit a complete rate request by the due date shall be allowed to submit a written request for a 30-day extension based on good cause as defined in Section 11-400g.(1). The good cause request shall be postmarked within five calendar days of the rate request due date and shall contain the following:
- (A) A clear statement that the request is for a determination of good cause;
 - (B) The specific reason(s) for submitting an untimely rate request;
 - (C) The provider's name, address and telephone number;
 - (D) The name, address and telephone number of the person to be notified regarding the determination of good cause; and
 - (E) The name, location and program number of the affected program(s).
- (2) Within ten calendar days of the postmarked date of a provider's request for a 30-day good cause extension, the Department shall either approve or deny the request and shall notify the provider in writing of the determination.
- (A) An approved request shall allow the provider to submit a complete rate request within 30 days of the postmarked date of the Department's notification letter. A complete rate request submitted within the 30-day time period shall have a rate effective date of July 1.
 - (B) A complete rate request that is not submitted within the 30-day time period shall have a rate effective date established in accordance with the appropriate penalty contained in Section 11-403(f)(2)(B).
 - (C) A denied request shall require the provider to submit a complete rate request prior to the first of the next calendar month to avoid imposition of additional late penalties. The effective date of the rate shall be set in accordance with the appropriate penalty contained in Section 11-403(f)(2)(B).

Authority Cited: Sections 10553, ~~and~~ 10554, 11460(b), 11463, and 11466.21, Welfare and Institutions Code.

Reference: Sections 11468, 11463, 11466.21, 11466.22, 11466.24, and 11468.2, Welfare and Institutions Code; Public Laws 98-502 and 104-156; Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book); Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, February 22, 2002 and May 7, 2002; and Internal Revenue Code Section 4958.

1. Post-Hearing: Adopt Section 11-404 to read:

11-404 USE OF FEDERAL AND STATE FOSTER CARE FUNDS

11-404

- .1 Federal and State AFDC-FC program funds shall be used to meet the cost of providing care and supervision and its associated administrative costs, consistent with the paid rate, for AFDC-FC eligible children as specified in Sections 11-402.82 and 11-403(c).
- .2 Once the care and supervision needs of the children commensurate with the paid rate have been rendered, any unexpended AFDC-FC funds at the end of the program's fiscal year, may be retained by the non-profit corporation operating the group home and/or FFA program, regardless of the fiscal year for which they were received. When expended, these funds shall be used to provide activities that serve or benefit California foster care children, which include, but are not limited to, the following:
 - .21 AFDC-FC allowable costs of other group home and/or FFA programs operated by a non-profit corporation, as specified in Sections 11-402.82 or 11-403(c).
 - .22 Any child-related direct services which shall include, but are not limited to orthodontia, glasses, therapeutic services, recreation therapy, and after-care services, only to the extent that those services are not fully funded from any other governmental funding source and only to the extent that those activities benefit California foster care children.
 - .23 The costs of starting new programs or expanding existing programs, and the operational costs of existing programs provided that the majority of the population to be served by the program shall be California foster care children.
 - .24 The costs of providing pre and/or post emancipation services for California foster care children up to 21 years of age, as identified in either the case plan, individual needs and services plan, or the Transitional Independent Living Plan.
- .3 For the purposes of this section, the term "foster care children" shall include any foster care child or youth who is or has been placed in out-of-home care by a California child welfare services or probation placement agency, including children who are placed out-of-state pursuant to the Interstate Compact on the Placement of Children.

Authority Cited: Section 11460, Welfare and Institutions Code.

Reference: Section 11460, Welfare and Institutions Code and CFR 45 Part 74.

1. Amend Section 11-405 to read:
2. Post-Hearing: Amend Section 11-405 to read:

11-405 FISCAL AND FINANCIAL AUDITS

11-405

.1 Fiscal Audits

- .11 Group home and foster family agency fiscal audits shall be performed by the Department, its agents, or by an audit agency of the federal government. (Continued)

- .112 ~~A-g~~Group home programs and foster family agencies shall maintain, at a minimum, the following documentation, as applicable, to support AFDC-FC program expenditures for a period of not less than five years: (Continued)

- .13 ~~Group Home Payroll and Fringe Benefit Report consists of the following:~~ The Group Home Program Cost Report (SR 3), Group Home Program Payroll and Fringe Benefit Report (SR 4), and Total Program Cost Display (FCR 12FFA) are used to report the following payroll and fringe benefit data: (Continued)

- .136 Other payroll and fringe benefit costs. (Continued)

.2 Financial Audits

As a condition to receive an AFDC-FC rate, a non-profit corporation that operates a group home program and/or a foster family agency program that provides treatment services shall submit a financial audit report to the Department.

.21 Audit Report Requirements

To be accepted by the Department ~~for ratesetting purposes~~, a financial audit report shall meet the following requirements: (Continued)

- .213 The audit shall be conducted according to ~~generally accepted auditing standards applicable to entities organized and operated on a nonprofit basis~~ the Government Auditing Standards issued by the Comptroller General of the United States [Generally Accepted Government Auditing Standards (GAGAS)] and financial accounting standards applicable to entities organized and operated on a non-profit basis.

- (a) ~~Audits shall be conducted according to the Government Auditing Standards of the Comptroller General of the United States for financial statement audits. Beginning April 1, 2003, for those non-profit corporations that expend \$300,000 or more in combined federal funds for all of its programs and activities during the non-profit corporation's fiscal year, the audit must be conducted according to the standards contained in federal Office and Management Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. The non-profit corporation's financial audit report shall be submitted to the Department within the earlier of 30 days after receipt of the independent auditor's report or nine months after the end of the non-profit corporation's most recent fiscal year.~~
- (1) For purposes of this section, federal Foster Care funds shall be deemed expended when received by the non-profit corporation.
- (2) Corporations shall submit to the Department one copy of the complete OMB Circular A-133 report and audited cost data as specified in Section 11-405.214.
- (3) Notwithstanding Section 11-405.213(a), a non-profit corporation which operates a group home program and/or a foster family agency program that provides treatment services whose fiscal year began prior to April 1, 2003 shall submit a financial audit report for the non-profit corporation's most recent fiscal year in accordance with *Government Auditing Standards* or OMB Circular A-133 standards, within the time frame specified in Section 11-405.213(b).
- (b) ~~In meeting the requirements of Subsection (a) above, corporations may have audits conducted according to the standards established by the federal Office of Management and Budget (OMB) Circular A-133, either voluntarily or to meet the requirements of other government agencies. For a non-profit corporation that expends less than \$300,000 in combined federal funds for all of its programs and activities during the non-profit corporation's fiscal year, the audit must be conducted according to *Government Auditing Standards* as specified in Section 11-405.213. The non-profit corporation's financial audit report shall be submitted to the Department within the earlier of 30 days after receipt of the independent auditor's report or six months after the end of the non-profit corporation's most recent fiscal year.~~

.214 The audit shall include all of the programs and activities of the non-profit corporation which operates a group home and/or foster family agency which provides treatment services and shall not be limited to those programs and activities funded in whole or in part by AFDC-FC funds. The audit shall also include audit procedures applied to the cost data reported on the SR 3, SR 4,

and FCR 12FFA. The data reported by providers in the cost reports shall be consistent with the entity's fiscal year audit period as specified in Section 11-405.215. The audited cost data may be reported together with the audit of all the programs and activities or reported separately and referenced as an attachment.

(a) A non-profit corporation which operates a group home program and/or a foster family agency program that provides treatment services whose fiscal year began prior to April 1, 2003 shall not be required to submit audited cost data. These corporations shall submit unaudited cost data with the financial audit report.

.215 (Continued)

(a) If the corporation's fiscal year ends less than six months before the audit report is due and the corporation has not previously submitted the audit report for the previous fiscal year to obtain a group home or foster family agency rate, the corporation may submit the audit report for the previous fiscal year. Notwithstanding Section 11-405.21, a non-profit corporation that has been incorporated fewer than 12 calendar months by the end of its first fiscal year in which it received AFDC-FC funds shall not be required to submit a financial audit report. (Continued)

.216 Financial information shall be reported in a format consistent with generally accepted accounting principles as established by the Financial Accounting Standards Board, with generally accepted government auditing standards the *Government Auditing Standards* issued by the Comptroller General of the United States (GAGAS), and, if applicable, with federal OMB Circular A-133 as required in Section 11-405.21.

.217 A non-profit corporation that is unable to submit a timely audit report by the due date specified in Section 11-405.213 shall be allowed to submit a written request for determination of good cause as defined in Section 11-400g.(1) which shall be postmarked no later than the audit report due date.

(a) The request shall contain the following:

- (1) A clear statement specifying the request for determination of good cause for late submission of a financial audit report.
- (2) The specific reason(s) for late submission of a financial audit report.
- (3) The earliest date when a financial audit report can be submitted and the reason why it cannot be submitted earlier.
- (4) The provider's name, address and phone number.

(5) The name, address and phone number of the person to be notified regarding the determination of good cause.

(6) The name, location and program number of the affected program(s).

(b) Within 15 calendar days of receipt of the request for a determination of good cause, the Department shall make a determination of good cause and shall notify the non-profit corporation in writing of the determination.

(1) When the Department determines that good cause exists for a late submission of the financial audit report, the Department shall notify the non-profit corporation of the revised due date.

(2) When the Department determines that good cause does not exist for late submission of the financial audit report, the Department shall notify the non-profit corporation that it may be subject to rate termination for failure to submit a timely financial audit report as specified in Section 11-402.393.

.2178 ~~A provider who non-profit corporation that~~ submits an audit report which does not meet the Department's requirements set out in ~~MPP~~ Sections 11-405.211 through ~~11-405.216~~ will be granted 30 days to correct any deficiencies unless the Department determines that circumstances beyond the control of the provider exist to grant a longer period.

.2189 ~~A provider who non-profit corporation that~~ does not submit an acceptable audit report by the end of the period specified in Section ~~11-405.2178~~ above or fails to submit an audit report as specified in Sections 11-405.213(a) and (b) shall be subject to rate termination under Section 11-402.393.

.22 (Continued)

.23 Administrative Procedures for Recoupment

.231 Management Decision and Recoupment

(a) For a financial audit report submitted as a condition for receiving a Foster Care program rate, the Department shall issue a management decision on audit findings within six months of receipt of the financial audit report. The management decision shall clearly state whether or not the audit finding is sustained, the reasons for the decision, and the action expected of the corporation to repay disallowed costs, make financial adjustments, or take other action.

- (b) The Department may issue a management decision upon completion of a fiscal audit if deemed necessary and appropriate. Any management decision issued as a result of a fiscal audit shall clearly describe each review finding and the action expected of the corporation to repay disallowed costs, make financial adjustments, or take other action.
- (c) The Department may recover those costs identified in a financial audit or fiscal audit as misuse or fraud involving AFDC-FC funds. The Department's decision on recoupment shall be based on a review of the audit findings, any responses from a non-profit corporation's management to the findings, including any actions taken to recover misused or fraudulently expended funds, and findings from any additional audits conducted by the Department or its designee. The Department shall provide written notice to the non-profit corporation of its determination in a management decision. The Department's determination of misuse or fraud and its decision on recoupment shall be final if the provider does not request a hearing within the prescribed time stated in Section 11-405.232.

.232 Hearing

The non-profit corporation may request a hearing of the Department's determination of misuse or fraud and its decision on recoupment no later than 30 days after the date the Department issues the management decision. The request for hearing shall identify each audit finding in dispute, and set forth the non-profit corporation's contentions for each disputed audit finding. The request for hearing shall include all supporting documentation that is relevant to the disputed audit findings. Within 60 days of the request for hearing, the Department shall conduct a hearing on the determination, in accordance with the hearing procedures set forth in Sections 11-430.5 through .69. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the Department. The hearing officer shall issue the proposed decision within 45 days of the close of the evidentiary report. The director shall adopt, reject or modify the proposed decision, or refer the matter back to the hearing officer for additional evidence or findings within 100 days of the issuance of the proposed decision. If the director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.

.233 Repayment Terms

The Department shall establish repayment terms in accordance with Section 11-402.66.

.234 Rate Termination

- (a) Pursuant to Section 11-402.393, the Department may terminate the rate of a non-profit corporation that is found to have committed misuse or fraud including, but not limited to the following circumstances:
- (1) Multiple occurrences of misuse, or
 - (2) Failure to pay on amounts determined by the Department to be misuse or fraud, or
 - (3) An officer or director of a non-profit corporation is convicted of fraud, embezzlement, deception, theft and/or material misrepresentation regarding the corporation's operation of its group home or foster family agency program.
- (b) Pursuant to Section 11-402.393, the Department may terminate the rate of a non-profit corporation that has failed to substantially comply with expected corrective actions as specified in a management decision letter.

.24 Nothing in this section shall preclude counties from conducting site visits or from performing audits to verify compliance with the terms of any contract or agreement between a county placement agency and a group home and/or foster family agency relative to children in care. Such activities shall not duplicate audits conducted in accordance with OMB Circular A-133.

Authority Cited: Sections 10553, 10554, ~~and~~ 11460(b), 11460.1, and 11466.21, Welfare and Institutions Code; and Health and Safety Code Section 1559.125.

Reference: Sections 11465 and 11468, Welfare and Institutions Code; Public Laws 98-502 and 104-156; Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book); and Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, February 22, 2002 and May 7, 2002.

1. Post-Hearing: Adopt Section 11-406 to read:
2. Second 15-Day Renotice: Amend Section 11-406 to read:

11-406 DEFINITIONS – FORMS

11-406

The following forms are incorporated by reference:

- (a) (Reserved)
- (b) (Reserved)
- (c) (Reserved)
- (d) (Reserved)
- (e) (Reserved)
- (f) (Reserved)
- (g)
 - (1) Group Home Program Cost Report (SR 3, Rev. 12/02) – This form is used by a non-profit corporation to report cost information of a specific group home program.
 - (2) Group Home Program Days of Care Schedule (SR 5, Rev. 10/99) – This form is used by a non-profit corporation to report historical or projected monthly data on the occupancy and licensed capacity of a specific group home program.
 - (3) Group Home Program Payroll and Fringe Benefit Report (SR 4, Rev. 12/02) – This form is used by a non-profit corporation to capture historical or projected monthly data on payroll and fringe benefit costs for a specific group home program.
 - (4) Group Home Program Rate Application (SR 1, Rev. 1/00) – This is the form used by a non-profit corporation to apply for a group home program rate.
- (h) (Reserved)
- (i) (Reserved)
- (j) (Reserved)
- (k) (Reserved)
- (l) (Reserved)
- (m) (Reserved)
- (n) (Reserved)

(o) (Reserved)

(p) (1) Program Classification Report (SR 2, Rev. 6/99) – This form is used by a non-profit corporation to capture historical and projected monthly data, which is used to establish a rate classification level (RCL) for a specific group home program.

(q) (Reserved)

(r) (Reserved)

(s) (Reserved)

(t) (1) Total Program Cost Display (FCR 12FFA, Rev. 12/02) – This form is used by a non-profit Foster Family Agency corporations to collect cost information for a specific program.

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions.

Reference: Section 15658, Welfare and Institutions Code.